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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,008	02/20/2002	Nitzan Arazi	2098/9	5516

7590 11/20/2003

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Discovery Dispatch

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EXAMINER

CONTEE, JOY KIMBERLY

ART UNIT

PAPER NUMBER

2686

DATE MAILED: 11/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,008

Applicant(s)

ARAZI ET AL.

Examiner

Joy K Contee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 20 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1 and 4-11 is/are rejected.
- 7) ☐ Claim(s) 1-3,6-8,10-11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1,6-8 and 10-11 are objected to because of the following informalities: using capital letters in words such as "Base Stations" and "Switch" is not necessary in the claims. Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 4-11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 5-12 of U.S. Patent No. 6,430,395. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 5-12 of 6,430,395 encompass the scope of claims 1 and 4-11 of the instant application. The difference between the sets of claims is found in claim 1 of each the 6,430,395 patent and the instant application. Claim 1 of 6,430,395 describes in a

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wireless communication system comprising a plurality of base stations (i.e., reads on, at least two base station) and at least one switch in communication with the base stations a method of synchronizing (i.e., reads on, using a short-range communication protocol for performing tasks that require accurate time synchronization) at least one neighboring base station (i.e., reads on at least two base stations communicating with the at least one switch) to a base station connected with a mobile unit.

Although 6,430,395 does not specifically discuss periodically transmitting during a selected time interval with higher transmission power than during normal transmission and receiving the transmission with higher transmission power at the least one neighboring base station, in conjunction with accurate time synchronization, this "fine synchronization" is encompassed in the low-level protocol running at the base station connected to the mobile unit as described in claim 1 of 6,430,395.

Omission of element and its function in combination is obvious expedient if remaining elements perform same function as before. In re KARLSON (CCPA) 136 USPQ 184 (1963).

Allowable Subject Matter

4. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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5. The following is a statement of reasons for the indication of allowable subject matter: prior art of record fails to explicitly disclose in combination with the limitations of claim 1, wherein the increased transmission power during the synchronization hop is at least twice as great as the normal transmission power and wherein the synchronization hop is transmitted at a different frequency than the remaining periodic hops.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mangullis et al., U.S. Patent No. 4,617,674, discloses a synchronizing system for spread spectrum transmissions between small earth stations by satellite via an intermediate hop to a large earth station.

Fukasawa et al., U.S. Patent No. 5,715,521, discloses a method of controlling synchronization signal power in a communication system.

Atarius, U.S. Patent No. 6,278,699, discloses a synchronization technique and system for spread spectrum radio communication.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joy K. Contee whose telephone number is 703-308-0149. The examiner can normally be reached on 5:30 a.m. to 2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703-305-4379.

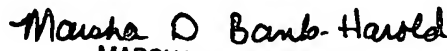
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The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.


Joy K. Contee

November 15, 2003


MARSHA D. BANKS-HAROLD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600